

REMARKS

The Examiner rejected claims 1 and 5-6 under 35 U.S.C. §102(e) as allegedly being anticipated by Gershman et al., U.S. Patent No. 6,199,099 B1.

The Examiner rejected claims 2-4 and 7-30 under 35 U.S.C. §103(a) as allegedly being unpatentable over Gershman and further in view of Brockman et al., U.S. Patent Publication No. US 2002/0123919 A1.

Applicants respectfully traverse the §102 and §103 rejections with the following arguments.

35 U.S.C. §102

The Examiner rejected claims 1 and 5-6 under 35 U.S.C. §102(e) as allegedly being anticipated by Gershman et al., U.S. Patent No. 6,199,099 B1.

Applicants respectfully contend that claim 1 is not anticipated by Gershman, because Gershman does teach each and every feature of claim 1.

As a first example of why Gershman does teach each and every feature of claim 1, Gershman does not teach the following first feature of claim 1: "a) gathering information on characteristics of a service provider". The Examiner alleges that Gershman teaches the preceding first feature of claim 1 in: the Abstract; FIG. 1A and associated text; FIG. 16 and associated text; and col. 34, lines 8-42. In response, Applicants contend that Gershman's Abstract does not teach anything about a service provider. Applicants contend that FIG. 1A and the accompanying text in col. 1, line 61 - col. 2, line 14 discloses an Internet Service Provider, but does not disclose gathering information on characteristics of the Internet Service Provider as required by claim 1. Applicants contend that the accompanying text to FIG. 1A in col. 1, line 61 - col. 2, line 14 discloses information provided to users through access of third party services, but does not disclose that said information is about characteristics of a service provider as required by claim 1. Applicants contend that FIG. 16 and the accompanying text in col. 34, lines 8-42 discloses information about personalized product ratings, but does not disclose anything about a service provider and most certainly does not disclose gathering information on characteristics of a service provider as required by claim 1. Applicants contend that the Examiner has made unsupported allegations in relation to said first feature of claim 1, and Applicants maintain that Gershman does not teach said first feature of claim 1.

As a second example of why Gershman does teach each and every feature of claim 1, Gershman does not teach the following second feature of claim 1: "b) analyzing the information to provide an outcome". The Examiner alleges that Gershman teaches the preceding second feature of claim 1 in: the Abstract; FIG. 1A and associated text; FIG. 16 and associated text; and col. 34, lines 8-42. In response, Applicants contend that none of the Examiner's citations in Gershman teach analyzing the information gathered in step a) to provide an outcome. Applicants contend that the Examiner has made unsupported allegations in relation to said second feature of claim 1, and Applicants maintain that Gershman does not teach said second feature of claim 1.

As a third example of why Gershman does teach each and every feature of claim 1, Gershman does not teach the following third feature of claim 1: "c) generating a report responsive to the outcome". The Examiner alleges that Gershman teaches the preceding third feature of claim 1 in: the Abstract; FIG. 1A and associated text; FIG. 16 and associated text; and col. 34, lines 8-42. In response, Applicants contend that none of the Examiner's citations in Gershman teach generating a report responsive to the outcome in step b). Applicants contend that the Examiner has made unsupported allegations in relation to said third feature of claim 1, and Applicants maintain that Gershman does not teach said third feature of claim 1.

As a fourth example of why Gershman does teach each and every feature of claim 1, Gershman does not teach the following fourth feature of claim 1: "d) providing the report to at least two clients of the service provider". The Examiner alleges that Gershman teaches the preceding fourth feature of claim 1 in: the Abstract; FIG. 1A and associated text; FIG. 16 and associated text; and col. 34, lines 8-42. In response, Applicants contend that none of the Examiner's citations in Gershman teach providing said report to at least two clients of the service

provider. Applicants contend that the Examiner has made unsupported allegations in relation to said fourth feature of claim 1, and Applicants maintain that Gershman does not teach said fourth feature of claim 1.

In summary, Applicants contend that the Examiner has made conclusory allegations in relation to claim 1 in which the Examiner has not provided an analysis of Gershman to support the Examiner's allegations. Thus, the Examiner has failed to establish that Gershman anticipates claim 1.

Based on the preceding arguments, Applicants respectfully maintain that Gershman does not anticipate claim 1, and that claim 1 is in condition for allowance. Since claims 5-6 depend from claim 1, Applicants contend that claims 5-6 are likewise in condition for allowance.

In addition in relation to claims 5 and 6, the Examiner alleges "Gershman further teaches that his reports will be available to clients on-line (Fig 16, associated text) as well as in hard copy (C46, L64). Therefore Gershman anticipates both claims 5 and 6: [claim 5] the report comprises hard copy. [claim 6] the report comprises soft copy." In response, Applicants note that the "the report" of claims 5 and 6 has antecedent basis in "a report" of claim 1, which is generated responsive to an outcome provided by analyzing information on characteristics of a service provider. The "report" referred to by the Examiner in relation to claims 5 and 6 is not the same "report" as claimed in claim 1 and is therefore irrelevant. Hence Gershman does not anticipate claims 5 and 6.

35 U.S.C. §103

The Examiner rejected claims 2-4 and 7-30 under 35 U.S.C. §103(a) allegedly being unpatentable over Gershman and further in view of Brockman et al., U.S. Patent Publication No. US 2002/0123919 A1.

In relation to claims 7, 11, 15, 19, 23, and 27, the Examiner alleges: "Gershman in view of Brockman disclose most of the limitations of these claims, namely: A method for characterizing a service provider comprising the acts of a) gathering information on characteristics of a service provider; b) analyzing the information to provide an outcome; c) generating a report responsive to the outcome; and d) providing the report to at least two clients of the service provider; wherein the acts of analyzing, generating, and providing are performed by a management".

Applicants respectfully contend that the above list of features are features of claim 1, and the Examiner has not provided any more argumentation for the preceding features in relation to claims 7, 11, 15, 19, 23, and 27 than the Examiner provided for claim 1. Accordingly, Applicants refer back to Applicants' arguments relating to claim 1, to explain why Gershman in view of Brockman does not teach or suggest each and every feature of claims 7, 11, 15, 19, 23, and 27.

In addition, the Examiner alleges that "Gershman teaches that "availability" of products/services is a significant characteristic for customers to learn about and make decisions on (Summary of the Invention; Fig 10A, associated text; C2, I.65)". In response, Applicants contend that the Examiner's argument, whether correct or incorrect, is misguided because claim 15 recites "gathering information on availability of an application service provider" and does not

recite anything about an availability of goods and services.

In addition, the Examiner alleges that "Brockman, on the other hand, discloses that "performance" is yet another yardstick by which clients should measure their intended or current vendors (Par. 17, 66-67, 106-109)." In response, Applicants maintain that the preceding allegation by the Examiner, whether correct or incorrect, has no relevance to what is recited in claims 7, 11, 15, 19, 23, and 27, since a yardstick by which clients should measure their intended or current vendors is not claimed in any of claims 7, 11, 15, 19, 23, and 27.

In addition, the Examiner alleges that "Other significant characteristics such as price, customer service, and others may be used in the analyses and reports, as taught by both references." In response, Applicants maintain that the preceding allegation by the Examiner, whether correct or incorrect, has no relevance to what is recited in claims 7, 11, 15, 19, 23, and 27, since what the Examiner has alleged is not claimed in any of claims 7, 11, 15, 19, 23, and 27.

In addition, claims 7, 11, 15, 19, 23, and 27 claim gathering information about service providers, which Gershman in view of Brockman does not teach or suggest, and the Examiner has provided no citation in Gershman or Brockman, and no analysis of either Gershman or Brockman, that supports the Examiner's rejection of claims 7, 11, 15, 19, 23, and 27.

Based on the preceding arguments, Applicants respectfully maintain that claims 7, 11, 15, 19, 23, and 27 are not unpatentable over Gershman in view of Brockman, and that claims 7, 11, 15, 19, 23, and 27 are in condition for allowance. Since claims 8-10 depend from claim 7, Applicants contend that claims 8-10 are likewise in condition for allowance. Since claims 12-14 depend from claim 11, Applicants contend that claims 12-14 are likewise in condition for allowance. Since claims 16-18 depend from claim 15, Applicants contend that claims 16-18 are

likewise in condition for allowance. Since claims 20-22 depend from claim 19, Applicants contend that claims 20-22 are likewise in condition for allowance. Since claims 24-26 depend from claim 23, Applicants contend that claims 24-26 are likewise in condition for allowance. Since claims 28-30 depend from claim 27, Applicants contend that claims 28-30 are likewise in condition for allowance.

In addition in relation to claims 2 and 3, the Examiner alleges: "Gershman does not specifically disclose that the service providers are ASPs and/or ISPs. However he does teach that all types of vendors/suppliers/service providers may be targets for analysis reports (Fig 1A)." In response, Applicants contend that the preceding allegation of the Examiner is false; FIG. 1A of Gershman not teach that all types of vendors/suppliers/service providers may be targets for analysis reports. Accordingly, claims 2 and 3 are not unpatentable over Gershman in view of Brockman.

In addition in relation to claim 4, the Examiner admits: "Neither Gershman nor Brockman specifically recites the act of providing comprises the act of selling the report". The Examiner argues: "Gershman's system is directed toward consumers and Brockman's to businesses. However it's obvious that both systems are designed to offer services for payment from their target audiences. Therefore it would have been obvious to one ordinarily skilled in the art at the time the invention was made that management reports such as those contemplated by both references would not be offered free of charge. Indeed, such detailed and useful reports would fetch good prices and will increase potential revenues for the management service." In response,

Applicants consider the preceding argument by the Examiner to have the form of a rejection over Gersluman in view of Brockman and in further view of the Examiner's speculation, which is improper and also is not consistent with a rejection over Gershman in view of Brockman. Additionally, Applicants note that the "the report" of claim 4 has antecedent basis in "a report" of claim 1, which is generated responsive to an outcome provided by analyzing information on characteristics of a service provider. The "report" referred to by the Examiner in relation to claim 4 is not the same "report" as claimed in claim 1 and is therefore irrelevant. Accordingly, claim 4 is not unpatentable over Gershman in view of Brockman.

In addition in relation to claims 8, 12, 16, 20, 24, and 28, the Examiner alleges: "Using the same analysis as for claim 4 above, Gershman and Brockman further disclose that the act of providing comprises the act of selling the report." In response, Applicants refer to Applicants' arguments *supra* in relation to claim 4.

In addition in relation to claims 9, 13, 17, 21, 25, and 29 the Examiner alleges: "Gersluman further discloses (see claim 5 above): ..the report comprises hard copy." In response, Applicants refer to Applicants' arguments *supra* in relation to claim 5.

In addition in relation to claims 10, 14, 18, 22, 26, and 30 the Examiner alleges: "Gersluman further discloses (see claim 6 above): ..the report comprises soft copy." In response, Applicants refer to Applicants' arguments *supra* in relation to claim 6.

CONCLUSION

Based on the preceding arguments, Applicants respectfully believe that all pending claims and the entire application meet the acceptance criteria for allowance and therefore request favorable action. If the Examiner believes that anything further would be helpful to place the application in better condition for allowance, Applicants invites the Examiner to contact Applicants' representative at the telephone number listed below.

Date: 10/08/2003

Schmeiser, Olsen & Watts
3 Lear Jet Lane, Suite 201
Latham, New York 12110
(518) 220-1850

Jack P. Friedman
Jack P. Friedman
Registration No. 44,688